

17. (Currently Amended) Apparatus comprising:

a communications interface for receiving signaling, sent from an upstream node at substantially the same time as a cross-connect is initiated,  
~~before a cross-connect~~ at the upstream node ~~is completed~~ on a forward pass of a connection setup and receiving signaling from a downstream node on a reverse pass of the connection setup; and

a processor for initiating a cross-connect with ~~one or more~~ the downstream node ~~nodes~~ on the forward pass, and for checking if the cross-connect ~~cross-connects~~ was ~~were~~ successful on the reverse pass.

18. (Cancelled).

19. (Cancelled).

20. (Cancelled).

21. (Cancelled).

### **REMARKS**

#### **A. The Section 112 Rejections**

Claims 1, 6, 9-11, 17 and 18 were rejected under 35 U.S.C. §112, the Examiner taking the position that, in sum, the amendments made to these claims by the Applicants' in their previous response are not supported by the present specification. Applicants disagree and traverse these rejections for at least the following reason.

The Applicants direct the Examiner to page 6, lines 15-20 which discusses the receipt of a setup message by "intermediate nodes". Notwithstanding this support, the Applicants have amended the claims to remove the previously added text, replacing it with words that more closely match the words on page 6, lines 15-20. The Applicants submit that the present changes to these claims renders the §112 rejections moot.

**B. The Section 102 Rejections**

Claims 1, 3-7, 9-15 and 17-21 were rejected under 35 U.S.C. §102(a) based on an article authored by Wei et al. (hereinafter "Wei"). Applicants disagree and traverse these rejections for at least the following reasons.

Each of the claims of the present invention includes the feature of, among other things, sending a connection setup message to a next node at substantially the same time as a cross-connect is initiated.

In contrast, Wei appears to send a SETUP message after a cross-connect is initiated (e.g., after a time period,  $t_p$ ).

Because Wei does not disclose each and every feature of claims 1, 3-5, 9-15 and 17-21 Wei cannot anticipate the subject matter of these claims under 35 U.S.C. §102(a). Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 3-7, 9-15 and 17-21.

**C. The Section 103 Rejections**

Claims 8 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wei in view of an article by Qiao et al. ("Qiao"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Claims 8 and 16 include the use of in-band signaling to initiate cross-connections. The Examiner's position notwithstanding (and the Applicants are now confused as to this position, i.e., is the Examiner relying on Wei for in-band signaling???), Wei appears to be directed solely at out-of-band signaling, not in-band signaling. Further, the excerpt from Wei referred to by the Examiner briefly mentions a generalized form of in-band signaling (not the claimed in-band signaling or anything suggestive of the claimed in-band signaling) that Wei does not make use of in any event. To overcome this deficiency, the Examiner relies on Qiao.

After reading Qiao, especially page 26, section 2, the Applicants do not find any mention of in-band signaling. Because of this, the Applicants respectfully submit that Qiao does not make up for the deficiency of Wei.

In more detail, the excerpt from Qiao relied upon by the Examiner does not appear to support a disclosure or suggestion of in-band signaling. Rather, Qiao appears to disclose a high speed protocol called "JET" that is based on a "TAG" protocol used in circuit switching. Circuit switching inherently uses out-of-band signaling, not in-band.

Accordingly, Applicants respectfully submit that the subject matter of claims 8 and 16 is not rendered obvious by a combination of Wei and Qiao. For at least these reasons, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 8 and 16.

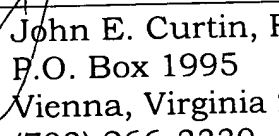
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC.

By



John E. Curtin, Reg. No. 37,602  
P.O. Box 1995  
Vienna, Virginia 22183  
(703) 266-3330